

MT LEGISLATIVE HISTORY

Chapter 472 19 77

Bill H _____ S 347

Original bill & hist. C

H. Committee on Bus. & Ind.

S. Committee on Chapman's Transport

Hearing Date(s) 3-28 C

Hearing Date(s) 2-15 C

 C

2-17 C

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Date Out 3-28 C

2-17 C

Did this bill originate in an interim committee? Yes No

Committee

Report

1 *Senete* BILL NO. 367
2 INTRODUCED BY *Senete*
3 *by Report*
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE PUBLIC
5 SERVICE COMMISSION TO INVESTIGATE ONLY MAJOR ACCIDENTS
6 INVOLVING PUBLIC UTILITIES AND TO DELETE THE REQUIREMENT
7 THAT THE COMMISSION REPORT SUCH ACCIDENTS TO THE GOVERNOR;
8 AMENDING SECTION 70-129, R.C.M. 1947."
9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 70-129, R.C.M. 1947, is amended to
12 read as follows:

13 "70-129. Investigation of accidents -- report as to
14 accident. (1) The commission or some member thereof, or some
15 person deputed by it, shall investigate and make inquiry
16 into every accident occurring in the operation of any public
17 utility in this state, resulting in death or injury to any
18 person of such gravity as to require ~~the attention of a~~
19 ~~physician or surgeon 3 days or more of hospitalization.~~ The
20 testimony taken at such hearing shall be transcribed and
21 filed in the office of the commission.

22 (2) It is hereby made the duty of every public utility
23 operating within this state, promptly upon the occurrence of
24 any accident, ~~such as is mentioned above~~ to report by
25 teletype the accident within 24 hours, followed by written

1 ~~report, the same to the commission, in which report shall be~~
2 ~~stated the time and place of accident, the names of persons~~
3 ~~killed or injured, and in concise form the nature and cause~~
4 ~~of such accident. The commission shall prescribe forms for~~
5 ~~the purpose of making such written reports. Reports of~~
6 ~~accidents as referred to in this section shall be included~~
7 ~~in the commission's annual report to the governor."~~

-End-

INTRODUCED BILL

-2-

SB 367

STATE OF MONTANA

REQUEST NO. 527-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 10, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 367 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

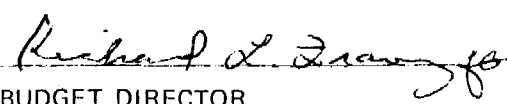
Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to amend Section 70-129 which requires the Public Service Commission to investigate and report accidents involving public utilities, to investigate only major accidents, and delete the requirement that the commission report such accidents to the Governor.

FISCAL IMPACT:

None.


BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-21-77

COMMITTEE ON HIGHWAYS AND TRANSPORTATION

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS <u>DATE</u>	DO NOT PASS <u>DATE</u>	DO PASS AS AMEND. <u>DATE</u>	BE CON- CURRED IN <u>DATE</u>	BE CONC. IN AS AMENDED <u>DATE</u>	BE NOT CON- CURRED IN <u>DATE</u>
362	2/9	2/15	2/17			2/17			
366	2/9	2/15	2/17	2/17					
367	2/9	2/15	2/17			2/17			
374	2/9	2/15	2/17		2/17				
375	2/9	2/15	2/17			2/17			
386	2/9	2/17	2/19			2/19			
390	2/9	2/15	2/17	2/17					
391	2/9	2/15	2/17	2/17					
392	2/9	2/15	2/17			2/17			
407	2/5	2/10	2/10		2/10				
411	2/7	2/19	2/19		2/19				
412	2/7	2/17							
420	2/9	2/17	2/17			2/17			
426	2/10	2/17	2/17			2/17			
432	2/12	2/19							
440	2/17	2/19	2/24			2/14			

(Use Separate Sheet for Senate, House Bills, and Resolutions)

February 15, 1977

desire for jail sentences, this bill would change the crime from a misdemeanor to a civil penalty with fines up to \$1000. The PSC believes this will be a better deterrent than jail would be.

CONSIDERATION OF SENATE BILL 367: Mr. Rob Smith testified that SB 367 would change the reporting procedure for accidents involving public utilities. The legislative auditor recommended that this amendment be introduced in this session because it has never been enforced by PSC. SB 367 would change the nature of the statutes to require only major accidents involving public utilities to be reported and investigated.

Senator R. Smith asked if this bill would require the reporting of broken limbs if the accident did not require three days of hospitalization. Mr. Rob Smith answered that it would all be dependent on the hospitalization involved with the accident.

CONSIDERATION OF SENATE BILL 375: Mr. Rob Smith explained that SB 375 would prohibit railroads from establishing discriminatory rates, charging more for short hauls than for long hauls. The ICC now prohibits discriminatory pricing for interstate commerce. Mr. Smith submitted an amendment to the committee that had been requested by the railroad. The amendment would allow competition in situations where competition now exists. (See attached #1 - a copy of proposed amendments.)

Mr. Duane Olson, representing Con-Agra of Montana, Incorporated, testified that since the 1972 constitution and the removal of the prohibition for charging more for the short haul than for the long haul, Burlington Northern started charging more for the short haul. This prohibition has long been included in the Interstate Commerce Act on the federal level.

Mr. Olson referred to a map that explained the situation that his company now faces with BN. He explained that the BN has charged 31 cents per hundred weight which was the interstate rate. But about one year ago the BN started charging 48 cents on a particular short haul route. Con-Agra responded by paying only the 31 cents which resulted in a law suit filed by BN for the amount past due. Mr. Olson commented that there are a number of situations in which this type of discriminatory pricing could occur.

CONSIDERATION OF SENATE BILL 390: Mr. Rob Smith commented that presently the law requires the PSC to make an annual report on the implementation of the Railroad Act. The PSC does not do that now; there is no need for that report. The legislative auditor has recommended that this requirement be abolished.

CONSIDERATION OF SENATE BILL 391: Mr. Smith testified that SB 391 would make the statutes under which the PSC operates conform with the Montana Administrative Procedures Act. Three things are accomplished with the passage of the bill: 1) it changes the time of appeal from 90 days to 30 days to conform with the time limits of the Administrative

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Mr. William Scribner representing the Montana Motor Carriers Association stated that he did not want the committee to be left with the impression that there were not elaborate filings made before the Consumer Counsel filed their statements. It is not required by any rules of the PSC, but with their sanction the Motor Carriers file justifications sworn to by all the carriers showing the statistics that justify the increases sought. These statements are filed at the time of the application or shortly thereafter. The carriers do not go there frivolously.

CONSIDERATION OF SENATE BILL 367: Mr. Les Loble representing General Telephones of the Northwest testified that SB 367 was an improvement over the existing law. However, an amendment was needed: page 1, section 1, line 25, Strike "24 hours", insert "the next two business days". The problem is that the PSC does not work on weekends so that when an accident happens on the weekend, there is no way to notify the PSC within 24 hours. In response to the previous question about this bill including broken limbs in the definition of major accidents, Mr. Loble said that §70-129, subsection 2 requires that the utility report that kind of accident, but the law would no longer require the PSC to go out and investigate the accident. With that proposed amendment, the Motor Carriers would support the bill.

Mr. Jim Hughes representing Mountain Bell stated that they were in support of the bill and in concurrence with the amendment.

Chairman Manning suggested that the proponents and the opponents of the various bills should get together with the subcommittee of Senators Graham, Smith and Aber. Senator Healy moved that such a subcommittee be appointed; Senator Bergren seconded the motion. The committee voted unanimously to appoint the subcommittee. Chairman Manning advised the committee that they could look beyond the specific bills to others of the same nature.

CONSIDERATION OF SENATE BILL 375: Mr. Gorham Swanberg, representing the Montana Railroad Association, stated that as drafted he was opposed to SB 375. Several amendments were proposed by Mr. Swanberg that were handed out to the committee. (Attached #2) These amendments would make the bill acceptable to the Railroad Association. Mr. Swanberg stated that there were two specific points to be considered when viewing the bill as amended: 1) There are cases when it is easier for the railroad to run the long haul where at either end there is automatic loading and unloading as is the case with the unit coal trains. It is more efficient and economical for these runs to be uninterrupted by the shorter hauls. 2) The second point is more of a value judgement involving the competitive system. Using the map, Mr. Swanberg showed the committee what happens on the circuitous routes and the branch lines. If the railroad were not allowed to set the prices as they have been, the trucking industry would have all the grain business in a certain area or the small businesses would go out of business. The specific example used was Glasgow, Opheim, but the same situation could happen any place in which the tracks go in different directions. There was no objection from the Railroad Association with the PSC amendment.

MINUTES OF THE MEETING
HIGHWAYS AND TRANSPORTATION COMMITTEE
MONTANA STATE SENATE

February 17, 1977

The twelfth meeting of the Highways and Transportation Committee was called to order by Chairman Manning on the above date in Room 404 of the State Capitol Building at 6:00 p.m.

ROLL CALL: Senator Hazelbaker was excused, Senator Healy arrived at 6:10 and left at 6:45. All other members were present.

DISPOSITION OF SENATE BILL 366: Senator Smith moved that SB 366 do pass. Senator Aber seconded the motion. The motion carried unanimously with Senators Healy and Hazelbaker absent.

DISPOSITION OF SENATE BILL 160: Senator Lockrem moved that the amendments presented to the committee by Mr. Beck be adopted. (See Attached #1) Senator Hager seconded the motion. Senator Aber asked for clarification of what the amendments accomplished. Senator Lockrem said that the amendments would give the Department of Highways some latitude in utilizing the coal byproducts. There were no objections to the amendments. Senator Smith added that it also waived the rights of hearing in those cases already covered by other laws. The committee voted unanimously and the motion carried. Senator Lockrem moved that SB 160 do pass as amended. Senator Bergren seconded the motion. The motion carried with Senators Aber and Etchart voting no and Senators Hazelbaker and Healy absent.

DISPOSITION OF SENATE BILL 390: Senator Smith moved that SB 390 do pass. Senator Bergren seconded that motion. The motion carried unanimously with Senator Hazelbaker absent.

DISCUSSION OF SENATE BILL 208: Senator Lockrem moved that SB 208 do not pass. Senator Aber seconded that motion. Senator Lockrem explained that there was a problem with the bill needing substantial amendments. Senator Blaylock had received the attention of the Department of Administration which tends to be moving in the direction of the subcompact cars anyway. A resolution could accomplish the same thing. Chairman Manning told the committee that Senator Blaylock had asked that the committee delay and decision until Saturday when he could be there to tell of the additional research that the committee had requested of him. Senator Lockrem withdrew his motion and Senator Aber withdrew his second.

DISPOSITION OF SENATE BILL 367: Senator Smith moved that SB 367 be amended on page 1, line 25, striking the words "24 hours" and inserting "the next two business days". Senator Lockrem seconded the motion. The motion carried unanimously with Senator Hazelbaker absent. Senator Smith moved that SB 367 be further amended with Rob Smith's proposed amendment that on page 1, line 20, strike: "testimony taken at such hearing", insert: "report of the accident", following "be", strike: "transcribed and". Senator Hager seconded the motion. The motion carried unanimously with Senator Hazelbaker absent. Senator Smith moved that SB 367 do pass as amended. Senator Lockrem seconded the motion. The motion carried unanimously with Sen. Hazelbaker absent.

February 17, 1977

REPORT ON SENATE BILL 367: Mr. Rob Smith of the Public Service Commission legal staff reported that the subcommittee meeting decided upon some amendments to this bill. On page 1, section 1, line 25, the words "24 hours" should be stricken and the words "two business days" should be inserted.

REPORT ON SENATE BILL 375: Mr. Smith noted that the witnesses seemed to be in agreement with the amendments that had been submitted to the secretary by the PSC on February 15.

REPORT ON SENATE BILLS 366 & 390: Mr. Smith commented that these bills were acceptable to the subcommittee as introduced.

REPORT ON SENATE BILL 362: Mr. Smith told the committee that the Brazier amendments were acceptable to the subcommittee and the PSC.

Mr. Brazier testified that the subcommittee got together on the language and had agreed on several amendments. (See Attached #1) These amendments would make sure that the protestants would file their testimony and exhibits only after the applicants had filed the same.

CONSIDERATION OF SB 426 & SB 386: Senator William Murray, chief sponsor of the legislation testified that SB 386 proposes the regulation of the relations between the new car dealers and the factory. The bill covers a number of different areas such as licensing, liability, appeals, etc. Sen. Murray turned the testimony over to Mr. Jerry Raunig of the Montana Auto Dealers Association.

Mr. Raunig said that he would address his comments to both SB 386 and to SB 426. These bills were introduced as a result of the problems created because the dealers do not own the franchises. The manufacturers are able to wield economic power over the dealers. They make decisions for the dealers on such things as the ads they are required to buy, expansion of facilities, etc., and when the dealers refuse to comply, the manufacturers threaten to cancel the franchise and in some cases they have done so. SB 386 and SB 426 would give the Montana new car dealers added protection against the undo hardships that the manufacturers can perpetrate. 37 states now have such protecting laws. With the difference in the economic power positions, the state must arbitrate.

Mr. Dan Murray, a former new car dealer from Lewistown, testified as to a personal experience in which the manufacturer required him to build a new facility which he could not afford at the time. When he was unable to complete the new facility due to the lack of funds, the manufacturer cancelled the franchise as of December 31, 1976.

Mr. George Vucanovich, a Helena auto dealer, testified that he had also had a personal experience with the manufacturers concerning product liability in which he was required to pay one-half of the damages in a law suit over some latent defects in a vehicle he handled. (Attached #2)

STANDING COMMITTEE REPORT

February 18

19 77

MR. President

We, your committee on HIGHWAYS AND TRANSPORTATION

having had under consideration SENATE Bill No. 367

Respectfully report as follows: That SENATE Bill No. 367,
first reading, be amended as follows:

1. Amend page 1, section 1, line 20.
Strike: "testimony taken at such hearing"
Insert: "report of the accident"
2. Amend page 1, section 1, line 20.
Following: "be"
Strike: "transcribed and"
3. Amend page 1, section 1, line 25.
Following: "within"
Strike: "24 hours"
Insert: "the next two business days"

AND AS SO AMENDED, DO PASS

~~XXXXXX~~

Chairman.

DAVE MANNING

BUSINESS & INDUSTRY COMMITTEE

45th Legislature

COURTESY OF THE
State Law Library
of Montana

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 367	Requiring the Public Service Commission to investigate only major accidents involving public utilities	2/26/77	Devine	3/28/77	AS AMENDED CONCURRED IN	3/28/77
SB 375	Reviving the prohibition against discriminatory charges along portions of railroad routes	2/26/77	Devine	3/28/77	CONCURRED IN	3/28/77
SB 382	Clarifying the respective roles of the Consumer Counsel and the Public Service Commission in adversary utility rate cases being conducted by the Public Service Commission	2/26/77	Towe	3/30/77	AS AMENDED CONCURRED IN	3/30/77
SB 392	Raising the filing fee for a motor carrier certificate	2/26/77	Devine	3/28/77	CONCURRED IN	3/28/77
SB 433	Providing for specialty licenses for heating, ventilation and air conditioning work	2/26/77	R. Smith	3/30/77	AS AMENDED BUT NOT CONCURRED IN	3/30/77
SB 442	Amending sections defining small miners	2/26/77	Natural Resources Com.	3/30/77	CONCURRED IN	3/30/77

HOUSE BUSINESS AND INDUSTRY COMMITTEE

March 28, 1977

The meeting was called to order at 10:10 a.m. with all members present with the exception of Reps. Quillici, Bradley, Ellison and Fagg, who were excused; and Rep. Harrington, who was absent.

Senate Bill No. 367 was discussed. Sen. Devine, sponsor, gave an explanation of the bill (testimony attached).

Mr. Rob Smith, proponent, stated the bill was recommended by the Legislative Auditor. It provides the requirement that all accidents by the utility are reported to the PSC. He also proposed an amendment (attached).

Mr. Bob Gannon stated that under present law, the utility must report every accident resulting in an injury. This would require that all injuries be reported.

Mr. Gene Phillips expressed his support in the bill with the proposed amendments.

Senate Bill No. 375 was discussed. Sen. Devine, sponsor, gave an explanation of the bill (testimony attached).

Mr. Rob Smith, proponent, said the bill has the support of the shippers and the Railroad Association.

Mr. Jeff Brazier stated that the bill is a mini version of ICC transportation regulation. It would give the railroad its general revenue. A railroad may be faced with competition from a motor carrier and will want reduced rate and unless you have a bill like this, they will lose their competition. It does provide for more flexible administration for transportation rates.

There were no opponents or questions.

Senate Bill No. 391 was discussed. Sen. Devine, sponsor, gave an explanation of the bill (testimony attached).

Mr. Rob Smith stated there was no substantive change in the bill. It is a matter of computation for people seeking orders of the PSC.

Mr. Gannon said that Montana Power is neutral on this bill. Mr. Jim Hughes stated the repealing section at the end would strike provisions for allowing transcript of proceedings.

Mr. Smith added that section 82-4209, part 5 the APA section would cover the transcript. Mr. Brazier said that since the APA there has been groping on all parties on how to proceed. It is more of a housekeeping bill than anything else.

March 28, 1977, page 2.

Senate Bill No. 392 was discussed. Sen. Devine, sponsor, gave the explanation of the bill (testimony attached).

Mr. Rob Smith stated that the PSC presides over the sale and transfer of these tickets. The PSC is trying to get it organized because there is computation over this. The PSC would like to be able to make sure that when people come in to get these authorities everything will be organized. It will take the cost back, so that the PSC can get a better hold on the way in which it is done.

Sen. Devine stated in closing that there was only one opponent in the Senate hearing. Mr. Scribner with the MMA. Filings were made in good faith.

The committee then went into executive session.

Rep. Nathe moved to adopt the amendments on Senate Bill No. 367. The amendments were adopted unanimously. Rep. Tower moved that Senate Bill No. 367 BE CONCURRED IN AS AMENDED. The motion carried unanimously.

Rep. Tropila moved that Senate Bill No. 375 BE CONCURRED IN. The motion carried unanimously.

Rep. Harper moved that Senate Bill No. 391 BE CONCURRED IN. The motion carried unanimously.

Rep. Harper moved that Senate Bill No. 392 BE CONCURRED IN. The motion carried with all members voting yes, with the exception of Reps. Nathe, Burnett, and Scully who voted no.

Mr. Boyce Clarke explained the amendments on Senate Bill No. 345. It would require that the PSC adopt manuals and rules to be included in the filing. Also classifications would be included. It would clarify the law. The people Mr. Knepper represented only write a very modest volume of plan 2. The other areas of competition had no objection to the bill after the amendments were submitted (testimony attached).

Rep. Nathe moved that the committee accept the amendments to Senate Bill No. 345. The motion carried unanimously. Rep. Kenny moved that Senate Bill No. 345 BE CONCURRED IN AS AMENDED. The motion carried unanimously.

There being no further business, the meeting adjourned at 11:05 a.m.


JOHN C. VINCENT, Chairman

SENATE BILL NO. 367

INTRODUCED BY DEVINE (BY REQUEST)

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE PUBLIC SERVICE COMMISSION TO INVESTIGATE ONLY MAJOR ACCIDENTS INVOLVING PUBLIC UTILITIES AND TO DELETE THE REQUIREMENT THAT THE COMMISSION REPORT SUCH ACCIDENTS TO THE GOVERNOR; AND RELATING TO REPORTING OF ACCIDENTS BY PUBLIC UTILITIES; AMENDING SECTION 70-129, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 70-129, R.C.M. 1947, is amended to read as follows:

"70-129. Investigation of accidents -- report as to accident. (1) The commission or some member thereof, or some person deputed by it, shall investigate and make inquiry into every accident occurring in the operation of any public utility in this state, resulting in death or injury to any person of such gravity as to require the attention of a physician or surgeon 3 days or more of hospitalization. The testimony taken at such hearing REPORT OF THE ACCIDENT shall be transcribed and filed in the office of the commission.

(2) It is hereby made the duty of every public utility operating within this state, promptly upon the occurrence of any accident IN THE PUBLIC UTILITY'S OPERATION AND RESULTING

IN DEATH OR INJURY TO ANY PERSON OF SUCH GRAVITY AS TO REQUIRE HOSPITALIZATION, such as is mentioned above, to report by--telegraph the accident within 24 hours THE NEXT TWO BUSINESS DAYS, followed by written report ~~the same to the commission~~ in which report shall be stated the time and place of accident, the names of persons killed or injured, and in concise form the nature and cause of such accident. FOR ANY OTHER ACCIDENT OCCURRING IN A PUBLIC UTILITY'S OPERATION AND RESULTING IN INJURY, A PUBLIC UTILITY SHALL SUBMIT A WRITTEN REPORT TO THE COMMISSION WITHIN THE 20 DAYS AFTER THE OCCURRENCE OF THE ACCIDENT. The commission shall prescribe forms for the purpose of making such written reports. ~~Reports of accidents as referred to in this section shall be included in the commission's annual report to the governor."~~

-End-

REFERENCE BILL